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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/121,300	07/23/1998	BRUCE G. KANIA	3295-0024-0C	3160

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EXAMINER

WILLSE, DAVID H

ART UNIT PAPER NUMBER

3738

DATE MAILED: 12/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/121,300

Applicant(s)

KANIA ET AL.

Examiner

Dave Willse

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on October 28, 2002. 12-17-02
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 75-78, 80 and 83-105 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 75-78, 80, and 83-105 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☒ Other: translation attached.

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 75 and 78 are rejected under 35 U.S.C. 103(a) as being unpatentable over Norman, GB 2 213 380 A. Regarding claim 75 and the added term “seamlessly” (line 3), Norman teaches an alternative embodiment in which the ePTFE membrane is “pre-laminated to a suitable thermoplastic” such as knitted nylon fibers (page 4, lines 14-16).

Claims 75, 78, 83, 84, and 88-91 are rejected under 35 U.S.C. 103(a) as being unpatentable over Norman, GB 2 213 380 A. Regarding claim 75, the pre-formed membrane 10' of Norman is not necessarily sewn to the absorbent outer sock 13, as seen from page 4, lines 12-14, and it must be pointed out that the Applicant discloses seamed embodiments, as evident from page 12, lines 22-25; pages 18-19 (especially page 18, line 21, through page 19, line 1); and so on. Therefore, a seamless attachment of the membrane 10' to the absorbent outer sock 13 would have been an obvious variant, particularly in the absence of any disclosed criticality that a seamless embodiment has over a seamed one. Regarding claims 83-84, docking means are common in the art and would have been obvious in order to better secure the liner to the artificial limb 14. Regarding claims 88-89, biocides and the like would have been obvious in order to

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help prevent or treat infections on the residuum. Regarding claims 90-91, liners having sensing or detecting means for transmitting a signal from the residual limb to a prosthetic device are likewise well known in the art and would have been obvious in order to provide the amputee with greater control of the prosthesis through myoelectric signals, muscular movements, and the like.

Claims 75, 78, 80, and 85 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Lerman, US 4,635,626. The fabric outer layer **38**, for example, is coated seamlessly (via the adhesive layer **40**) on only the inside thereof with polymeric (e.g., polyester foam) cushioning material **32**.

Claims 83, 84, 86, and 88-91 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lerman, US 4,635,626. The further limitations would have been obvious for reasons cited above.

Claims 75-78, 80, 85, 92-94, 96, and 99 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by LPRI, SU 1739990 A1. As seen from the attached English translation, the cushions **2** and **3** are separate entities rather than being impregnated into the fabric layers **1** (e.g., page 4, last 5 lines, of the translation). The *outer* fabric layer **1** is certainly coated on only the inside thereof with polymeric cushioning material **2** and **3**; alternatively, the two layers **1** collectively define an *inside* space occupied by the polymeric cushioning material **2** and **3**.

Claims 83, 84, 86-91, 95, 97, 98, and 100-105 are rejected under 35 U.S.C. 103(a) as being unpatentable over LPRI, SU 1739990 A1. The further limitations would have been obvious for reasons cited above.

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The Applicant's remarks have been reviewed. The above grounds of rejection are believed to adequately address the Applicant's comments on the Norman reference. Regarding Lerman, the examiner fails to see how amended claim 75 necessarily excludes seams in the overall liner; only the coating of the polymeric material onto the fabric is done in a seamless manner, and the latter is true of the Lerman socks. The Applicant's request for evidence in support of the rejections based on the Russian publication should be met by the attached translation.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dave Willse, whose telephone number is (703) 308-2903. The supervisor, Corrine McDermott, can be reached at (703) 308-2111. The receptionist's phone number is (703) 308-0858, and the main FAX numbers are (703) 305-3591, 3590.

dhw: D. Willse  
December 17, 2002

  
**DAVE WILLSE**  
**PRIMARY EXAMINER**  
**ART UNIT 3738**